

JUL 28 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSEPH ALAN MANUEL,

Defendant - Appellant.

No. 05-10379

D.C. No. CR-03-00404-DFL

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
David F. Levi, District Judge, Presiding

Submitted July 24, 2006^{**}

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Joseph Alan Manuel appeals from the 60-month sentence imposed following his guilty-plea conviction for possession of digital images of minors engaged in sexually explicit conduct, in violation of 18 U.S.C. § 2252(a)(4)(B).

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Manuel fails to show plain error in the district court's finding that Manuel willfully obstructed justice by absconding from pretrial supervision and by failing to appear for a change of plea hearing. Manuel's obstructive conduct related to his offense of conviction, which was charged in both the original and superceding indictments. *See* U.S.S.G. § 3C1.1 cmt. n.4(e).

Further, in light of the proper finding regarding Manuel's obstruction of justice, the district court did not clearly err in finding that his case was not an "extraordinary" case worthy of a downward adjustment for acceptance of responsibility. *See* U.S.S.G. § 3E1.1, cmt. n.3-4; *see also United States v. Thompson*, 80 F.3d 368, 371 (9th Cir. 1996) (timely guilty plea and apology at sentencing do not outweigh fact defendant absconded before sentencing and thus case was not "extraordinary").

AFFIRMED.